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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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9 KURT M. WARREN,

10 Plaintiff,

11 v.

12 NAPHCARE and SPOKANE COUNTY  
13 JAIL,

14 Defendants.

2:16-cv-00375-SAB

**ORDER DISMISSING SECOND  
AMENDED COMPLAINT**

15 Before the Court is Plaintiff's Second Amended Complaint against a private  
16 medical corporation at the Spokane County Jail and the jail itself, ECF No. 15.<sup>1</sup>  
17 Plaintiff notified the Court that he is currently housed in the Idaho Correctional  
18 Alternative Placement Program Facility in Kuna, Idaho, ECF No. 16. He is  
19 proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

20 After a review of Plaintiff's Second Amended Complaint and liberally  
21 construing it in the light most favorable to Plaintiff, Plaintiff has failed to cure the  
22 deficiencies of his prior complaints. Plaintiff's only assertion is that he was  
23 "prevent[ed] . . . from getting the medical treatment [he] requested at time of  
24 need." He does not allege any official policy or custom that resulted in a  
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26 <sup>1</sup> Plaintiff attached a copy of the Order issued on April 28, 2017, to his Second  
27 Amended Complaint. It is not necessary for Plaintiff to provide the Court with  
28 copies of its own Orders.

1 constitutional injury. *See Monell v. New York City Dep't of Soc. Servs.*, 436 U.S.  
2 658, 690-94 (1978). Consequently, he has failed to state a § 1983 claim against  
3 Defendant Spokane County. Moreover, these allegations do not state a § 1983  
4 claim against NaphCare, a private organization.

5 Plaintiff indicates that he wishes to bring this action against “all the C/Os  
6 and medical staff” who were on “3 east” from July 25, until August 8, of an  
7 unspecified year. This is insufficient to state how identified Defendants were  
8 deliberately indifferent to his serious medical needs. *See Jones v. Williams*, 297  
9 F.3d 930, 934 (9th Cir. 2002) (holding that section 1983 liability must be based on  
10 the personal involvement of the defendant and rejecting liability based on  
11 membership in a group without a showing of individual participation).

12 For the reasons set forth above and in the Court’s prior Orders, ECF Nos. 7  
13 and 11, **IT IS ORDERED** the Second Amended Complaint is **DISMISSED with**  
14 **prejudice** for failure to state a claim upon which relief may be granted. *See* 28  
15 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

16 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who  
17 brings three or more civil actions or appeals which are dismissed as frivolous or for  
18 failure to state a claim will be precluded from bringing any other civil action or  
19 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious  
20 physical injury.” 28 U.S.C. § 1915(g). Plaintiff is advised to read the statutory  
21 provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may  
22 count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may  
23 adversely affect his ability to file future claims.

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1       **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
2 Order, enter judgment, forward copies to Plaintiff at his last known address, and  
3 close the file. The District Court Executive is further directed to forward a copy of  
4 this Order to the Office of the Attorney General of Washington, Criminal Justice  
5 Division. The Court certifies any appeal of this dismissal would not be taken in  
6 good faith.

7       **DATED** this 3rd day of August 2017.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

Stanley A. Bastian  
United States District Judge